

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

(1) PATRICIA THOMPSON, as Personal)
Representative of the Estate of)
MARCONIA LYNN KESSEE,)

Plaintiff,)

v.)

Case No. CIV-19-113-SLP

(1) BOARD OF COUNTY COMMISSIONERS))
FOR CLEVELAND COUNTY, an Oklahoma)
Political Subdivision; (2) CLEVELAND)
COUNTY SHERIFF'S OFFICE, A county law)
enforcement agency; (3) TODD R. GIBSON, in)
his official and Individual capacities;)
(4) ZACKERY ANDREWS, an individual;)
(5) BRIAN KNAPP, an individual;)
(6) CODY BARR, An individual; (7) STACY)
SHIFFLETT, An individual; (8) STEPHEN)
SCOTT, an Individual; (9) CITY OF)
NORMAN, an Oklahoma Municipality;)
(10) CITY OF NORMAN POLICE)
DEPARTMENT, a municipal law)
Enforcement agency;)
(11) KEITH HUMPHREY, In his office and)
individual capacities; (12) KYLE CANAAN,)
an individual; (13) DANIEL BROWN, an)
individual; (14) TURN KEY HEALTH)
CLINICS, LLC, an Oklahoma Limited)
Liability Company; (15) CLAYTON RICKERT))
An individual; (16) NORMAN REGIONAL)
HOSPITAL AUTHORITY d/b/a NORMAN)
REGIONAL HOSPITAL, public trust;)
(17) EMERGENCY SERVICES OF)
OKLAHOMA, P.C., a Domestic Professional)
Corporation; (18) STEVEN M. ROBERTS, D.O))
An individual; (19) JUSTIN L. HOLBROOK,)
A.P.R.N., C.N.P, an individual,)

Defendants.

DEFENDANTS' JOINT NOTICE OF REMOVAL

Defendants Board of County Commissioners for Cleveland County Oklahoma, Cleveland County Sheriff's Office, Todd Gibson, individually and in his official capacity as Sheriff of Cleveland County, Zackery Andrews, Brian Knapp, Cody Barr, Stacy Shifflett, Stephen Scott, City of Norman, City of Norman Police Department, Keith Humphrey, Kyle, Canaan, Turn Key Health Clinics, LLC, Clayton Rickert, Norman Regional Hospital Authority, a public trust, d/b/a Norman Regional Health System and Norman Regional Hospital, and Emergency Services of Oklahoma, P.C., (hereafter "Defendants") hereby jointly notify the Court and the parties that they are removing this action to the United States District Court for the Western District of Oklahoma pursuant to 28 U.S.C. § 1331, 28 U.S.C. § 1441, *et seq.*, and 28 U.S.C. § 1367. Defendants respectfully show the Court as follows:

1. These Defendants are some of the named Defendants in a civil action brought against them in the District Court of Cleveland County, State of Oklahoma, styled *Patricia Thompson, as Personal Representative of the Estate of Marconia Lynn Kessie, Plaintiff v. Board of County Commissioners for Cleveland County, an Oklahoma Political Subdivision; Cleveland County Sheriff's Office, a county law enforcement agency; Todd R. Gibson, in his official and individual capacities; Zackery Andrews, an individual; Brian Knapp, an individual; Cody Barr, an individual; Stacy Shifflett, an individual; Stephen Scott, an individual; City of Norman, an Oklahoma Municipality; City of Norman Police Department, a municipal law enforcement agency; Keith Humphrey, in his official and individual capacities; Kyle Canaan, an individual; Daniel*

Brown, an individual, Turn Key Health Clinics, LLC, an Oklahoma Limited Liability Company; Clayton Rickert, an individual; Norman Regional Hospital Authority d/b/a Norman Regional Hospital, a public trust; Emergency Services of Oklahoma, P.C., a Domestic Professional Corporation; Steven M. Roberts, D.O., an individual; and Justin L. Holbrook, A.P.R.N., C.N.P., an individual, Defendants, Case No. CJ-2019-71 (“State Court Action”). The initial State Court Action was filed on January 15, 2019.

2. The Petition asserts violations of the Fourth, Eighth, and Fourteenth Amendments of the Federal Constitution pursuant to 42 U.S.C. § 1983, as well as other state law claims.

3. Defendant Board of County Commissioners of Cleveland County was purportedly served with a copy of the initial Petition and Summons on or about January 16, 2018. Defendants Sheriff Gibson, Barr, and Shifflett were served on or about January 17, 2018. Defendants Andrews and Scott were served on or about January 18, 2018. Defendants Knapp and Barr have not been served to date, but expressly join in on this removal. These Defendants expressly reserve all arguments under Fed. R. Civ. P. 12(b), specifically within 12(b)(4), (5), and (6).

4. Defendant Turn Key Clinics, LLC, was purportedly served with a copy of the Petition on or about January 17, 2019. Defendant Clayton Rickert was served on or about January 22, 2019. These Defendants expressly reserve all arguments available pursuant to Fed. R. Civ. P. 12(b), specifically within 12(b)(4),(5), and(6).

5. Defendant Keith Humphrey and Defendant Kyle Canaan were purportedly served on or about January 16, 2019. Defendant City of Norman Police Department was

purportedly served on or about January 17, 2019. These Defendants expressly reserve all arguments available pursuant to Fed. R. Civ. P. 12(b), specifically within 12(b)(4),(5), and(6).

6. Defendant Norman Regional Hospital Authority, a public trust, d/b/a Norman Regional Health System was served on or about January 17, 2019 and also reserves all arguments available pursuant to Fed. R. Civ. P. 12(b), specifically within 12(b)(4), (5) and (6).

7. Defendant Emergency Services of Oklahoma, P.C., a domestic professional corporation, was served on or about January 16, 2019 and reserves all arguments available pursuant to Fed. R. Civ. P. 12(b), specifically within 12(b)(4), (5) and (6).

8. Therefore, this Notice of Removal is timely filed pursuant to 28 U.S.C. § 1446(b) as it is filed within the thirty days after purported service of the Petition on the Defendants served thus far.

9. This removal is pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1441 as Plaintiff has alleged claims arising under the laws of the United States, as well as 28 U.S.C. § 1367, as this Court has supplemental jurisdiction over Plaintiff's state law claims.

10. Written notice of the filing of this Notice of Removal will promptly be given to Plaintiff and a copy of the Notice of Removal will be filed with the Clerk of the District Court of Cleveland County, State of Oklahoma, as provided by 28 U.S.C. § 1446 (d).

11. Copies of all process, pleadings, and orders filed or served upon Defendants in the aforementioned State Court Action are attached hereto as follows, and made a part hereof:

- Exhibit 1 Docket Sheet
- Exhibit 2 Petition (1.15.19)
- Exhibit 3 Entry of Appearance by Chris Hammons (1.15.19)
- Exhibit 4 Entry of Appearance by Jason Hicks (1.15.19)
- Exhibit 5 Return of Service for Sheriff Gibson (1.17.19)
- Exhibit 6 Return of Service for City of Norman (1.18.19)
- Exhibit 7 Return of Service for Board of County Commissioners, Harold Haralson (1.18.19)
- Exhibit 8 Return of Service for Board of County Commissioners, Darry Stacy (1.8.19)
- Exhibit 9 Return of Service for Board of County Commissioners, Rod Cleveland (1.18.19)
- Exhibit 10 Return of Service for Cleveland County Sheriff's Office (1.18.19)
- Exhibit 11 Return of Service for Kyle Canaan (1.18.19)
- Exhibit 12 Return of Service for Norman Regional Hospital Authority (1.18.19)
- Exhibit 13 Return of Service for City of Norman Police Department (1.18.19)
- Exhibit 14 Return of Service for Emergency Services of Oklahoma, P.C. (1.18.19)
- Exhibit 15 Return of Service for Keith Humphrey (1.22.19)
- Exhibit 16 Return of Service for Todd Gibson (1.22.19)

12. As stated herein, Defendants respectfully reserve their right to file all appropriate motions and raise all defenses and objections in this action after it has been

properly removed to the United States District Court for the Western District of Oklahoma.

WHEREFORE, all Defendants named above and herein, by and through counsel, hereby remove the above-captioned case now pending in the District Court of Cleveland County, State of Oklahoma, to the United States District Court for the Western District of Oklahoma.

JURY TRIAL DEMANDED.

Respectfully submitted,

s/Jessica L. Dark

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Randall J. Wood, OBA #10531

Jessica L. Dark, OBA #31236

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Andrews, Knapp, Barr, Shifflett, and Scott*

s/Alexandra G. Ah Loy

(signed with permission by filing attorney)

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***Attorneys for Defendants Emergency Services
of Oklahoma, P.C. a Domestic Professional
Corporation***

CERTIFICATE OF MAILING

I hereby certify that on the 5th day of February, 2019, I electronically transmitted the attached document to the Clerk of the Court using the ECF System for filing and via E-Mail to the below counsel of record:

Chris Hammons Jason M. Hicks 1332 S.W. 89 th Street Oklahoma City, OK 73159 <i>Attorneys for Plaintiff</i>	Alexandra G. Ah Loy Johnson, Hanan and Vosler 9801 N. Broadway Extension Oklahoma City, OK 73114 (405) 232-6100 (405) 232-6105 aahloy@johnsonhanan.com <i>Attorney for Defendant Turn Key Health Clinics, LLC</i>
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s/Jessica L. Dark

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